

ESTTA Tracking number: **ESTTA601970**

Filing date: **05/02/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Sun Mark Ltd
Granted to Date of previous extension	05/07/2014
Address	428 Long Drive Greenford, UB68UH UNITED KINGDOM
Correspondence information	Sun Mark Ltd 428 Long Drive Greenford, UB6 8UH UNITED KINGDOM sanjay@sunmark.co.uk Phone:00442085753700

Applicant Information

Application No	85831237	Publication date	01/07/2014
Opposition Filing Date	05/02/2014	Opposition Period Ends	05/07/2014
International Registration No.	NONE	International Registration Date	NONE
Applicant	Cereales Y Pastas, S.A. De C.V. Col. Ciudad Industrial Celaya Celaya Guanajuato, 38010 MEXICO		

Goods/Services Affected by Opposition

Class 030. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Breakfast cereals; Processed cereal-based food to be used as a breakfast food, snack food or ingredient for making other foods

Applicant Information

Application No	85859929	Publication date	01/07/2014
Opposition Filing Date	05/02/2014	Opposition Period Ends	
International Registration No.	NONE	International Registration Date	NONE
Applicant	CEREALES Y PASTAS, S.A. DE C.V. Col. Ciudad Industrial Celaya Celaya Guanajuato, 38010 MEXICO		

Goods/Services Affected by Opposition

Class 030. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Breakfast cereals; processed cereal-based food to be used as a breakfast food, snack food or ingredient for making other foods

Applicant Information

Application No	85859938	Publication date	01/07/2014
Opposition Filing Date	05/02/2014	Opposition Period Ends	
International Registration No.	NONE	International Registration Date	NONE
Applicant	CEREALES Y PASTAS, S.A. DE C.V. Col. Ciudad Industrial Celaya Celaya Guanajuato, 38010 MEXICO		

Goods/Services Affected by Opposition

Class 030. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Breakfast cereals; processed cereal-based food to be used as a breakfast food, snack food or ingredient for making other foods

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4489923	Application Date	05/14/2012
Registration Date	03/04/2014	Foreign Priority Date	NONE
Word Mark	GOLDEN COUNTRY		
Design Mark	GOLDEN COUNTRY		
Description of Mark	NONE		
Goods/Services	<p>Class 005. First use: First Use: 0 First Use In Commerce: 0 Sanitary preparation for medical purposes; dietetic foods, namely, cereal for babies; food for babies, adapted for medical use; medical plasters, material for dressings, namely, medical dressings; material for stopping teeth; preparation for destroying vermin; fungicides, herbicides, baby foods; milk powder for babies; milk powder for foodstuffs for babies; milk powder for nutrition purposes for babies; foodstuffs for babies, namely, milk powders; powdered milk foods for infants; powdered milk for babies; substitutes for mothers milk, namely, powdered milk for babies; dried milk being food for infants; dried milk powder being food for babies; dried milk preparations being food for babies; dried milk products being food for babies</p> <p>Class 029. First use: First Use: 0 First Use In Commerce: 0 Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruit and vegetables; jellies, jams, compotes; eggs, milk and milk products excluding ice cream, ice milk and frozen yogurt; edible oils and fats; dried milk for food; dried milk powder; dried milk preparations, namely, dried milk</p>		

	<p>powder;dried milk products, namely, milk powder for nutritional purposes; powdered milk; powdered milk for food; powdered milkfor food purposes; margarine, edible oils and fats</p> <p>Class 030. First use: First Use: 0 First Use In Commerce: 0</p> <p>Coffee, tea, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, namely, bread; ices; honey, treacle; yeast, baking powder, salt, mustard; vinegar, sauces; spices; breakfast cereals; cereal bars, namely, ready to eat cereal derived food bars excluding chocolate coated cereal bars; cereal breakfast foods, namely, processed cereal-based food to be used as a breakfast food; cereal breakfast products, namely, processed cereal-based food to beused as a breakfast food; cereal products, namely, processed cereals; food products consisting of cereals, namely, processed cereals; honey; honeys; natural honey; salad dressings; dressings for salad</p>
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Attachments	<p>79116484#TMSN.jpeg(bytes)</p> <p>Notice of Opposition_Golden Foods_USA.pdf(81383 bytes)</p> <p>Exhibit A.pdf(237195 bytes)</p>
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Sanjay Raphael/
Name	Sun Mark Ltd
Date	05/02/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND
APPEAL BOARD

In re Ser. No. 85831237 – GOLDEN FOODS CORN FLAKES

**Ser. No. 85859929 – GOLDEN FOODS CALIDAD Y NUTRICION A TU ALCANCE CHOCO RONIS
BOLITAS DE MAIZ Y ARROZ SABOR CHOCOLATE**

Ser. No. 85859938 – GOLDEN FOODS FRUTI ROLLS

Sun Mark Ltd.

Opposer

V

Cereales Y Pastas, S.A. DE C.V.

Applicant

NOTICE OF OPPOSITION

SUN MARK LTD, a UK based company having its principal place of business at 428 Long Drive, Greenford, Middlesex, UB6 8UH, United Kingdom, believes that there will be a likelihood of confusion as a result of the registration of the following applications:

- Serial No. 85831237 GOLDEN FOODS Corn Flakes in class 30
- Serial No. 85859929 GOLDEN FOODS Calidad Y Nutricion A Tu Alcance Choco Ronis Bolitas De Maiz Y Arroz Sabor Chocolate in class 30
- Serial No. 85859938 GOLDEN FOODS Fruti Rolls in class 30

filed February 26 2013 by Cereales Y Pastas, S.A. DE C.V. of Col. Ciudad Industrial Celaya Avenida Mexico – Japon No. 400 – Celaya Guanajuato Mexico 38010, and hereby oppose the same pursuant to Section 13 of Trademark Act 1946 (15 USC §1063).

As grounds for opposition it is alleged that:

1. Opposer has adopted and is using the mark GOLDEN COUNTRY for goods in classes 29 and 30.
2. Trademark GOLDEN COUNTRY has been used world wide and sales of GOLDEN COUNTRY Cereals have commenced in the USA since April 2006.
3. Since long prior to the Applicants application, the Opposer has been using the mark GOLDEN COUNTRY for goods in classes 5, 29 and 30 and is the owner of registration No. 4489923. A copy of the registration is attached hereto as exhibit A.
4. On information and belief, the Applicant has not used GOLDEN FOODS prior to 2013.
5. Applicant's GOLDEN COUNTRY is, in part, virtually identical in appearance, sound and connotation to the Opposer's GOLDEN COUNTRY.
6. The goods on which the Opposer uses the GOLDEN COUNTRY mark and the goods for which the Applicant uses the GOLDEN FOODS mark are closely related.
7. The goods on which the Opposer uses the GOLDEN COUNTRY mark for which the Applicant uses the GOLDEN FOODS mark may be sold or rendered through the same channels of trade.

8. The goods for which the applicant intends to use/uses the GOLDEN FOODS mark may be sold or rendered to the same class of purchaser.
9. The use and registration by the Applicant's GOLDEN FOODS mark for the goods identified in Serial No. 85831237, 85859929 and 85859938 is likely to cause confusion, mistake or deception by having the public erroneously assume or believe that the goods emanate from the Opposer, or are in some way associated or connected with the Opposer's prior use of GOLDEN COUNTRY, all to the Opposer's irreparable damage.
10. For the reasons set forth herein, Opposer believes and asserts that it will be damaged by the registration of Serial No. 85831237, 85859929 and 85859938. Accordingly, the Opposer prays that this Opposition be sustained and that the Applicant be refused registration of GOLDEN FOODS for the goods covered in applications Serial No. 85831237, 85859929 and 85859938.

The filing fee is submitted electronically herewith.

Respectfully submitted,
SUN MARK LTD

By: 

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United States of America

United States Patent and Trademark Office

GOLDEN COUNTRY

Reg. No. 4,489,923

Registered Mar. 4, 2014

Int. Cls.: 5, 29 and 30

TRADEMARK

PRINCIPAL REGISTER

SUN MARK LIMITED (UNITED KINGDOM LIMITED LIABILITY COMPANY)
SUN HOUSE, 428 LONG DRIVE
GREENFORD, MIDDLESEX UB6 8UH
UNITED KINGDOM

FOR: SANITARY PREPARATION FOR MEDICAL PURPOSES; DIETETIC FOODS, NAMELY, CEREAL FOR BABIES; FOOD FOR BABIES, ADAPTED FOR MEDICAL USE; MEDICAL PLASTERS, MATERIAL FOR DRESSINGS, NAMELY, MEDICAL DRESSINGS; MATERIAL FOR STOPPING TEETH; PREPARATION FOR DESTROYING VERMIN; FUNGICIDES, HERBICIDES, BABY FOODS; MILK POWDER FOR BABIES; MILK POWDER FOR FOODSTUFFS FOR BABIES; MILK POWDER FOR NUTRITION PURPOSES FOR BABIES; FOODSTUFFS FOR BABIES, NAMELY, MILK POWDERS; POWDERED MILK FOODS FOR INFANTS; POWDERED MILK FOR BABIES; SUBSTITUTES FOR MOTHERS MILK, NAMELY, POWDERED MILK FOR BABIES; DRIED MILK BEING FOOD FOR INFANTS; DRIED MILK POWDER BEING FOOD FOR BABIES; DRIED MILK PREPARATIONS BEING FOOD FOR BABIES; DRIED MILK PRODUCTS BEING FOOD FOR BABIES, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FOR: MEAT, FISH, POULTRY AND GAME; MEAT EXTRACTS; PRESERVED, FROZEN, DRIED AND COOKED FRUIT AND VEGETABLES; JELLIES, JAMS, COMPOTES; EGGS, MILK AND MILK PRODUCTS EXCLUDING ICE CREAM, ICE MILK AND FROZEN YOGURT; EDIBLE OILS AND FATS; DRIED MILK FOR FOOD; DRIED MILK POWDER; DRIED MILK PREPARATIONS, NAMELY, DRIED MILK POWDER; DRIED MILK PRODUCTS, NAMELY, MILK POWDER FOR NUTRITIONAL PURPOSES; POWDERED MILK; POWDERED MILK FOR FOOD; POWDERED MILK FOR FOOD PURPOSES; MARGARINE, EDIBLE OILS AND FATS, IN CLASS 29 (U.S. CL. 46).

FOR: COFFEE, TEA, SUGAR, RICE, TAPIOCA, SAGO, ARTIFICIAL COFFEE; FLOUR AND PREPARATIONS MADE FROM CEREALS, NAMELY, BREAD; ICES; HONEY, TREACLE; YEAST, BAKING POWDER, SALT, MUSTARD; VINEGAR, SAUCES; SPICES; BREAKFAST CEREALS; CEREAL BARS, NAMELY, READY TO EAT CEREAL DERIVED FOOD BARS EXCLUDING CHOCOLATE COATED CEREAL BARS; CEREAL BREAKFAST FOODS, NAMELY, PROCESSED CEREAL-BASED FOOD TO BE USED AS A BREAKFAST FOOD; CEREAL BREAKFAST PRODUCTS, NAMELY, PROCESSED CEREAL-BASED FOOD TO BE USED AS A BREAKFAST FOOD; CEREAL PRODUCTS, NAMELY, PROCESSED CEREALS; FOOD PRODUCTS CONSISTING OF CEREALS, NAMELY, PROCESSED CEREALS;



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.



Please note that U.S. Customs & Border Protection (CBP), a bureau of the Department of Homeland Security, maintains a trademark recordation system for marks registered at the United States Patent and Trademark Office. Parties who register their marks on the Principal Register may record these marks with CBP, to assist CBP in its efforts to prevent the importation of goods that infringe registered marks. The recordation database includes information regarding all recorded marks, including images of these marks. CBP officers monitor imports to prevent the importation of goods bearing infringing marks, and can access the recordation database at each of the 317 ports of entry.

CBP's Intellectual Property Rights e-Recordation (IPRR) system, located at <https://apps.cbp.gov/e-recordations/>, allows right holders to electronically file IPR recordation applications, thus significantly reducing the amount of time normally required to process paper applications. Some additional benefits of the system include:

- Elimination of paper applications and supporting documents.
- Copies of the certificate issued by the registering agency (U.S. Patent and Trademark Office or the Copyright Office) are retained by the right holder, not submitted to CBP.
- Payment by credit card (preferred), check or money order.
- Ability to upload images of the protected work or trademark, thus obviating the need to send samples to CBP.
- Reduced time from filing of the application to enforcement by field personnel.

Information about how to obtain a recordation, and about CBP's Intellectual Property Rights border enforcement program, is available at CBP's web site, www.cbp.gov.